

FILED

DEC 09 2005

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By OM Deputy

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA

Plaintiff,
vs.

GLADE LUSK, and
THAIRON C. HAWK,

Defendants.

A05-107-01CR (RRB/JDR)

RECOMMENDATION
REGARDING
MOTION TO SEVER
DEFENDANTS: Bruton

(Docket No. 26)

UNITED STATES OF AMERICA

Plaintiff,
vs.


GLADE LUSK, and
MATTHEW J. O'CONNOR,

Defendants.

A05-052-01CR (RRB/JDR)
(Consolidated Case)

Defendant **Glade Lusk** moves the court to sever his trial from that of co-defendant Thairon Hawk.¹ Docket No. 26. At Docket No. 29 the government filed its response stating that defendant Hawk has entered into a plea agreement and pled guilty to Count 2 of this Indictment. Based on the response by the government, defendant's motion to sever should be denied as moot. IT IS SO RECOMMENDED.

DATED this 9th day of December, 2005, at Anchorage, Alaska.


JOHN D. ROBERTS
United States Magistrate Judge

Pursuant to D.Ak.L.M.R. 6(a), a party seeking to object to this proposed finding and recommendation shall file written objections with the Clerk of Court no later than **NOON, Friday December 16, 2005**, to object to a magistrate judge's findings of fact may be treated as a procedural default and waiver of the right to contest those findings on appeal. McCall v. Andrus, 628 F.2d 1185, 1187-1189 (9th Cir.), cert. denied, 450 U.S. 996 (1981). The Ninth Circuit concludes that a district court is not required to consider evidence introduced for the first time in a party's objection to a magistrate judge's recommendation United States v. Howell, 231 F.3d 615 (9th Cir. 2000). Objections and responses shall not exceed **five (5) pages** in

¹ Defendant Lusk's motion to sever trial from defendant Matthew J. O'Connor filed at Docket No. 38 was previously denied by the court. In court proceedings before the Hon. Ralph R. Beistline (Docket No. 97) he granted the government's Rule 13 Motion for Joint Trial and ordered that cases A05-052 CR and A05-107 CR be consolidated and that all further proceedings be filed in A05-107 CR.

length, and shall not merely reargue positions presented in motion papers. Rather, objections and responses shall specifically designate the findings or recommendations objected to, the basis of the objection, and the points and authorities in support. Response(s) to the objections shall be filed on or before **NOON, Wednesday, December 21, 2005**. The parties shall otherwise comply with provisions of D.Ak.L.M.R. 6(a).

Reports and recommendations are not appealable orders. Any notice of appeal pursuant to Fed.R.App.P. 4(a)(1) should not be filed until entry of the district court's judgment. See Hilliard v. Kincheloe, 796 F.2d 308 (9th Cir. 1986).

A05-0107--CR (RRB)

pm 12/9/05

✓ J. MURTAGH (MURTAGH)

✓ C. RANDELL (US ATTY)

✓ JUDGE BEISTLINE